

AMENDED IN SENATE JULY 11, 1997
AMENDED IN SENATE JUNE 30, 1997
AMENDED IN ASSEMBLY MAY 21, 1997
AMENDED IN ASSEMBLY MAY 8, 1997
AMENDED IN ASSEMBLY APRIL 14, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1527

Introduced by Assembly Member Brown

February 28, 1997

An act to add ~~Section 66451.25~~ *Sections 66451.22 and 66451.23* to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1527, as amended, Brown. Subdivision Map Act: Napa County.

The existing Subdivision Map Act generally regulates the division of land for purposes of sale, lease, and finance. That act prohibits the sale, lease, or financing of any parcel, the commencement of construction of any building for sale, lease, or financing, except for model homes, or the occupancy of any parcel or building for which a final or parcel map is required under the act, until the map has been filed for record in the county in which the subdivision is located.

The Subdivision Map Act additionally regulates the merger of parcels for purposes of the act. The act authorizes a local agency to provide by ordinance for these mergers, as

specified. Existing law permits a local agency to provide for the merger of a parcel or unit with a contiguous parcel or unit held by the same owner, under specified circumstances, if any one of the contiguous parcels or units held by the same owner does not conform to standards for minimum parcel size, under the zoning ordinance of the local agency applicable to the parcels or units of land. Also, under the act, a person owning real property, or a vendee of that person, as specified, may request, and the local agency with jurisdiction is required to determine, whether the real property complies with the provisions of the act and any local ordinances enacted pursuant to it, and to subsequently issue a certificate of compliance or a conditional certificate of compliance reflecting that determination.

This bill would permit the County of Napa to adopt ordinances to require, as a condition of the issuance of any permit or the grant of any approval necessary to develop any real property which includes an undeveloped substandard parcel, as defined, that the undeveloped substandard parcel be merged into any other parcel or parcels that are contiguous to it and were held in common ownership on or after the effective date of the enactment of these provisions, with specified exemptions. *The bill would require the legislative body of the County of Napa to conduct at least one public meeting with public testimony relating to any proposed ordinance pursuant to the bill prior to the noticed public hearing at which the legislative body proposes to enact the ordinance.*

The bill would provide that its provisions shall not be construed as affecting the right of the County of Napa, pursuant to its authority under the existing Subdivision Map Act relating to merger and unmerger of parcels, to merge any parcels of land in the unincorporated area of that county, including, but not limited to, those parcels eligible for exemption from an ordinance adopted under the provisions of this bill.

The California Constitution provides that a local or special statute is invalid in any case if a general statute can be made applicable.



This bill would declare that, due to the unique circumstances within the County of Napa that the bill is intended to remedy, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable and a special statute is necessary.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section ~~66451.25~~ 66451.22 is added to the
2 Government Code, to read:
3 ~~66451.25.—~~
4 66451.22. (a) The Legislature hereby finds and
5 declares that:
6 (1) The agricultural area of Napa County has become
7 extremely important over the last 25 years as a premier
8 winegrape growing region of worldwide importance and
9 should thereby be protected from parcelization.
10 (2) The county has determined that because of the
11 land's extraordinary agricultural value as a winegrape
12 production area and the fact that the county's tourism
13 industry entrusts its significant economic interests to its
14 agricultural and open-space lands, the highest and best
15 use for the agricultural land in the Napa Valley is for
16 agricultural production.
17 (3) The full potential build-out of parcels not
18 previously recognized in Napa County's agricultural
19 preserve and watershed areas could devastate the wine
20 industry of California and Napa County.
21 (4) To adequately protect the value and productivity
22 of the county's agricultural lands, Napa County needs
23 relief from the Subdivision Map Act's implied
24 preemption of local ordinances that may require merger
25 of parcels that do not meet current zoning and design and
26 improvement standards as well as the provisions that
27 recognize parcels created prior to, or before, the current
28 Subdivision Map Act.
29 (b) Notwithstanding any other provision of law, the
30 County of Napa may adopt ordinances to require, as a

1 condition of the issuance of any permit or the grant of any
2 approval necessary to develop any real property which
3 includes in whole or in part an undeveloped substandard
4 parcel, that the undeveloped substandard parcel be
5 merged into any other parcel or parcels that are
6 contiguous to it and were held in common ownership on
7 or after the effective date of this act, whether or not the
8 contiguous parcels are a part of the development
9 application, except as otherwise provided in subdivisions
10 (d) and (e).

11 (c) For purposes of this section, “undeveloped
12 substandard parcel” means a parcel or parcels that qualify
13 as undeveloped pursuant to subdivision (a) of Section
14 66451.11, are located in areas designated as Agricultural
15 Resource (AR) or Agricultural, Watershed, and Open
16 Space (AWOS) on the General Plan Map of Napa County
17 and are inconsistent with the parcel size established by
18 the general plan and any applicable specific plan.

19 (d) Any ordinance adopted by the County of Napa
20 pursuant to subdivision (b) shall exempt the following:

21 (1) Undeveloped substandard parcels for which a
22 conditional or unconditional certificate of compliance has
23 been issued pursuant to subdivision (a) or (b) of Section
24 66499.35, so long as the application for the certificate of
25 compliance, together with the documentation required
26 by the County of Napa on or before August 1, 1997, to
27 commence the processing of an application, is filed on or
28 before the effective date of this act; provided that this
29 exemption shall not be applicable to conditional
30 certificates of compliance, whenever issued, if the parcels
31 involved were created on or after January 1, 1997, in a
32 manner not in compliance with this division or local
33 ordinances enacted pursuant thereto.

34 (2) Substandard parcels created by the recordation of
35 a final or parcel map approved by the County of Napa on
36 or after December 29, 1955.

37 (3) Substandard parcels lawfully created by the
38 recordation of a record of survey prior to February 27,
39 1969.

~~(4) Property that has been assigned an assessor's parcel number and depicted on the assessor's parcel maps in existence on or after January 1, 1997, as a single parcel, provided that the owner of that single parcel, prior to filing an application development, records a document merging any underlying parcel lines that may exist, provided further that this exemption shall not be applicable to property that is either marked "separated for assessment purposes (SFAP)" or was created because of a tax rate area boundary or map page boundary, in which case only the property previously depicted as a parcel on the assessor parcel maps shall be entitled to the exemption.~~

(4) Notwithstanding Section 1093 of the Civil Code, property that in the most recently recorded deed, mortgage, patent, deed of trust, contract of sale, or other instrument of conveyance or security document, described by means of a consolidated legal description, whether or not such legal description is comprised of one or more previously existing legal descriptions, provided the owner of same prior to filing an application for development records a document merging any underlying parcel lines that may exist.

(e) Notwithstanding the provisions of subdivision (b), the Board of Supervisors of the County of Napa shall not require merger or condition or deny the issuance of any permit or the grant of any approval necessary to develop any real property in a manner that would constitute a taking of the landowner's property in violation of the United States and California Constitutions.

SEC. 2.—

(f) Nothing contained in this ~~aet~~ *section* shall be construed as affecting the right of the County of Napa, pursuant to the provisions of Article 1.5 (commencing with Section 66451.10) and Article 1.7 (commencing with Section 66451.30), to merge any parcels of land in the unincorporated area of that county, including, but not limited to, any parcels eligible for the exemption as described in subdivision (d) of Section ~~66451.25~~ 66451.22.

1 SEC. 2. *Section 66451.23 is added to the Government*
2 *Code, to read:*

3 *66451.23. Prior to adopting any ordinance authorized*
4 *by Section 66451.22, the legislative body of the County of*
5 *Napa shall conduct at least one public meeting at which*
6 *local officials shall allow public testimony regarding the*
7 *proposed ordinance in addition to the noticed public*
8 *hearing at which the legislative body proposes to enact*
9 *the ordinance.*

10 SEC. 3. The Legislature finds and declares that,
11 because of the unique circumstances applicable only to
12 the County of Napa, *as are more fully set forth in*
13 *subdivision (a) of Section 66451.22*, a statute of general
14 applicability cannot be enacted within the meaning of
15 subdivision (b) of Section 16 of Article IV of the California
16 Constitution. Therefore, this special statute is necessary.

